

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

JUAN A. SALINAS and  
LUCILA FUENTES


CASE NO.: 03-22046-CIV-JORDAN  
MAGISTRATE JUDGE BROWN

Plaintiff,

vs.

SUE ANN RAMSEY and  
HILDA RAMSEY,

Defendant.

FILED BY   
04 SEP 30 PM 2:53  
CLERK U.S. DISTRICT COURT  
S.D. OF FLORIDA - MIAMI

**PLAINTIFF'S VERIFIED MOTION FOR ATTORNEY FEES AND TO  
TAX COSTS PURSUANT TO LOCAL RULE 7.3(B) AND 29 U.S.C  
216(B) .**

**COMES NOW THE PLAINTIFF, through Counsel, and states:**

1. On September 22<sup>nd</sup>, 2004, the jury returned an overtime wage verdict in favor of the Plaintiffs in excess of \$9,000 after statutory doubling. This motion is brought pursuant to Local Rule 7.3(A).

2. The amount of attorney fees claimed and/or a fair estimate of the amount of attorney's fees claimed in conjunction with this matter for fees incurred for trial and litigation is \$12,485.00 based on 45.4 hours spent at a rate of \$275.00/hr. for the undersigned. The Undersigned



and the Plaintiffs have an agreement to a contingency fee of 40% of the total recovered by settlement /verdict or \$275.00/hr. upon prevailing at trial : whichever is greater. A detailed description of the time spent on this matter by the undersigned is attached hereto and the amount of taxable costs claimed of \$445 is detailed in the attached time sheets as well. Specifically, the request for a reimbursement of costs is made pursuant to F.R.C.P. 54(D) and Local Rule 7.3 and 29 U.S.C 216(B). Post-Judgment interest on the costs claimed is requested as well.

4. Pursuant to Local Rule 7.3(A) , the undersigned has fully reviewed the time records and supporting data and certifies that this motion is well grounded in fact and is justified.

5. Under the Fair Labor Standards Act 29 U.S.C. 216 (B), Prevailing Plaintiffs are entitled to attorneys fees and costs of suit.

6. Pursuant to Local Rule 7.3(A), the undersigned contacted the Defendant Sue Ann Ramsey at trial on more than one occasion to try to resolve the relief sought in this motion, in good faith, to no avail: Defendant was unwilling to agree to the relief sought in this motion. Before filing this motion, other phone calls were placed, post trial, to Sue Ann Ramsey to resolve this motion with no answer to date. Therefore, the undersigned certifies that a good faith effort has occurred to resolve this motion to no avail.

### **MEMORANDUM OF LAW ON ATTORNEY FEES.**

29 U.S.C. 216(b) states, in relation to prevailing Plaintiffs in FLSA suits, "The court in such action **shall**, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action."

WHEREFORE, THE PLAINTIFF REQUESTS ATTORNEY'S FEES IN THE AMOUNT OF \$12,485.00 and Costs in the amount of \$445.

#### MEMORANDUM OF LAW ON COSTS

29 U.S.C. 216(B) make an award of costs mandatory for a prevailing Plaintiff in an FLSA case. EEOC v. W&O, Inc., 213 F.3d 600 (11<sup>th</sup> Cir. 2000) held that only costs that are authorized by Statute may be awarded. The Plaintiff contends that all of his costs as outlined below should be awarded pursuant to 29 U.S.C. 216(B) because all were incurred as a result of litigating the Plaintiff's overtime claims under 29 U.S.C. 216 and were all necessarily incurred to prosecute this case through trial.

In addition to the costs stated below being authorized by 29 U.S.C. 216(B), the items are authorized by 28 U.S.C. 1920.

**J. H. ZIDELL, P.A.  
ATTORNEYS FOR PLAINTIFF  
300-71ST STREET, SUITE 605  
MIAMI BEACH, FLORIDA 33141  
305-865-6766  
F.B.N. 0010121**

By:   
**J.H. ZIDELL, ESQ.**

**CERTIFICATE OF SERVICE:**

**I hereby certify that a true and correct copy of the foregoing was mailed by U.S. Mail on  
September 28<sup>th</sup>, 2004 to:**

Sue Ann Ramsey  
522 South Hunt Club Blvd.,  
Apopka, Fla. 32703

By:   
**J.H. ZIDELL, ESQ.**

On September 28<sup>th</sup>, 2004, J.H. Zidell personally appeared and who is personally known to me  
and affirmed that the contents of this fee and cost motion are true and correct.

\_\_\_\_\_  
NOTARY PUBLIC/STAMP



11/12/2003	Review of Motion to Withdraw from attorney Peter S. Siegel	0.2
11/20/2003	Review of Defendant, HILDA RAMSEY's Responses to Plaintiffs' First Request for Admissions	0.1
11/26/2003	Review of Defendant, SUE ANN RAMSEY's Response to Plaintiffs' First Request for Admissions	0.1
12/01/2003	Preparation of Notice of Taking Deposition	0.2
12/09/2003	Review of letter from attorney Peter R. Siegel	0.2
12/12/2003	Review of letter from attorney Peter R. Siegel	0.1
12/19/2003	Preparation of Notice of Taking Deposition	0.2
12/23/2003	Review of letter from attorney N. James Turner	0.3
01/02/2004	Review of letter from attorney Peter R. Siegel	0.2
01/02/2004	Preparation of letter to attorney Peter R. Siegel re: Cancellation of Defendants' Depositions	0.4
07/20/2004	Preparation of Plaintiffs' Motion for Default Against Defendants and/or Motion for an Enlargement of Time to Comply With Court Order Dated July 14 <sup>th</sup> , 2004	1.0
08/10/2004	Preparation of Plaintiffs' Unilateral Pre-Trial Stipulation with file review	1.5
08/21/2004	Review of Unopposed Motion to Withdraw as Counsel of Record from attorney N. James Turner And several phone calls between counsel relative to withdrawal and preparation of pretrial stipulation and order on same.	1.0
09/14/2004	Preparation of letter to Clients re: Scheduling of Appointment	0.3
09/2004	Attendance at Pre-Trial Conference, Portal to Portal	1.5
09/20/2004	Preparation of exhibits, trial preparation, file preparation, and conference with client re: trial exhibits	7.0
09/20/2004	Preparation of Plaintiffs' Requested Jury Instructions and Verdict Form	3.0
09/21/2004	Attendance at trial, conference with client before trial, mediation and retrieval of liquidated damage order for argument on 09/22/2004—post verdict	10.0

09/22/04	Attend trial await verdict client conf. And argue liquidated damages	10.0
09/27/2004	Preparation of Fee and Cost Motion	1.5

TOTAL HOURS J. H. ZIDELL, ESQ.: 45.4 HRS. @ \$275/HR.

COSTS:

FILING FEES:	\$150.00	
SERVICE ON TWO DEFENDANTS:	\$70.00	
TRANSLATOR'S FEES AT TRIAL:		\$225.00
TOTAL:	\$445.00	